

Introduced by Senator Kehoe

(Coauthors: Assembly Members Shirley Horton and Vargas)

February 22, 2005

An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1052, as introduced, Kehoe. Property taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria. Among these criteria is a requirement that any reduction in the private contractor's property taxes resulting from these provisions inure solely to the benefit of the residents of the military housing through improvements, as specified.

This bill would require a Military Housing Oversight Committee to be established for each applicable military facility, which would be comprised of a resident of the facility, the county assessor or his or her designee, and, if applicable, other county officials. This bill would require this committee to approve or reject all of the private contractor's plans for these improvements and to notify the

Department of Finance and the Department of Veterans Affairs of any approved plans for improvements, as specified. This bill would also specify that if the committee determines that the amount of the private contractor's reduction in property taxes is greater than the amount necessary to meet the demand for improvements on the facility, the criterion pertaining to improvements for the residents of the facility would be deemed to not have been met as of the lien date for the fiscal year in which that determination is made.

By requiring county officials to serve on a Military Housing Oversight Committee, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 107.4 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 107.4. For purposes of paragraph (1) of subdivision (a) of
- 4 Section 107, there is no independent possession or use of land or
- 5 improvements if that possession or use is pursuant to a contract
- 6 that includes, but is not limited to, a long-term lease, for the
- 7 private construction, renovation, rehabilitation, replacement,
- 8 management, or maintenance of housing for active duty military
- 9 personnel and their dependents, if all of the following criteria are
- 10 met:
- 11 (a) The military family housing constructed and managed by
- 12 private contractor is situated on a military facility under military
- 13 control, and the construction of that housing is performed under
- 14 military guidelines in the same manner as construction that is
- 15 performed by the military.

1 (b) All services normally provided by a municipality are
2 required to be purchased from the military facility or a provider
3 designated by the military.

4 (c) The private contractor is not given the right and ability to
5 exercise any significant authority and control over the
6 management or operation of the military family housing, separate
7 and apart from the rules and regulations of the military.

8 (d) The number of units, the number of bedrooms per unit, and
9 the unit mix are set by the military, and may not be changed by
10 the contractor without prior approval by the military.

11 (e) Tenants are designated by a military housing agency.

12 (f) Financing for the project is subject to the approval of the
13 military in its sole discretion.

14 (g) Rents charged to military personnel or their dependents are
15 set by the military.

16 (h) The military controls the distribution of revenues from the
17 project to the private contractor, and the private contractor is
18 allowed only a predetermined profit or fee for constructing the
19 military family housing.

20 (i) Evictions from the housing units are subject to the military
21 justice system.

22 (j) The military prescribes rules and regulations governing the
23 use and occupancy of the property.

24 (k) The military has the authority to remove or bar persons
25 from the property.

26 (l) The military may impose access restrictions on the
27 contractor and its tenants.

28 (m) (1) Any reduction or, if that amount is unknown, the
29 private contractor's reasonable estimate of savings, in property
30 taxes on leased property used for military housing under the
31 Military Housing Privatization Initiative (10 U.S.C. Sec. 2871
32 and following) shall inure solely to the benefit of the residents of
33 the military housing through improvements, such as a child care
34 center provided by the private contractor.

35 (2) (A) *A Military Housing Oversight Committee shall be*
36 *established for each military facility described in this section.*

37 (B) The membership of the Military Housing Oversight
38 Committee shall be comprised of a resident of the facility, the
39 county assessor or his or her designee, and, if the county in
40 which the military facility is located has formed a county

1 treasury oversight committee under Section 27132 of the
2 Government Code, the members of that county treasury oversight
3 committee.

4 (C) (i) The private contractor described in paragraph (1) shall
5 submit to the Military Housing Oversight Committee
6 documentation showing the total costs for materials and labor for
7 proposed improvements for the facility.

8 (ii) Upon receiving the documentation described in clause (i),
9 the Military Housing Oversight Committee shall review the
10 documentation and either approve or reject the proposed
11 improvements. If the committee approves these improvements, it
12 shall report the cost of these improvements to the Department of
13 Finance and the Department of Veterans Affairs.

14 (iii) If the Military Housing Oversight Committee of a military
15 facility determines that the amount of the private contractor's
16 reduction in property taxes, or reasonable estimate thereof, is
17 greater than the amount necessary to meet the demand for
18 improvements on the facility, the criterion described in paragraph
19 (1) is deemed to not have been met as of the lien date for the
20 fiscal year in which that determination is made.

21 (n) The military family housing is constructed, renovated,
22 rehabilitated, remodeled, replaced, or managed under the
23 Military Housing Privatization Initiative, or any successor to that
24 law.

25 SEC. 2. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.